

Senate Government Operations Committee 1

Amendment No. 1 to SB2260

**Bell
Signature of Sponsor**

AMEND Senate Bill No. 2260

House Bill No. 2115*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "University of Tennessee Focusing on Campus and University Success (FOCUS) Act."

SECTION 2. Tennessee Code Annotated, Section 49-9-201, is amended by deleting the section in its entirety and substituting the following:

49-9-201. Board of trustees.

The governing body of the University of Tennessee shall be the board of trustees, established in § 49-9-202.

SECTION 3. Tennessee Code Annotated, Section 49-9-202, is amended by deleting the section in its entirety and substituting the following:

(a)

(1) As of July 1, 2018, the existing membership of the board of trustees of the University of Tennessee is vacated and reconstituted to consist of one (1) ex officio voting member, who shall be the commissioner of agriculture, and ten (10) voting members appointed by the governor.

(2)

(A) The governor shall appoint at least two (2) residents of each grand division of the state. For purposes of this subdivision (a)(2)(A), "resident" means a person whose legal domicile is in the grand division from which appointed.

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(B) At least five (5) of the members appointed by the governor must be alumni of the University of Tennessee. For purposes of this subdivision (a)(2)(B), "alumni" means a person who earned a degree at an institution of the University of Tennessee.

(C) At least seven (7) of the members appointed by the governor must be residents of the state of Tennessee. For purposes of this subdivision (a)(2)(C), "resident" means a person whose legal domicile is the state of Tennessee.

(D) In making appointments, the governor shall strive to ensure that the board of trustees is composed of members who are diverse in sex, race, perspective, and experience.

(b) The following individuals are prohibited from serving as an appointed member of the board of trustees for so long as they hold the office or position:

- (1) Employees of any public institution of higher education;
- (2) Elected officials;
- (3) State employees; and
- (4) Members of a governing body for any other public institution of higher education.

(c)

(1)

(A) Except as otherwise provided in this subsection (c), the ten (10) members of the board of trustees appointed by the governor pursuant to subsection (a) must be confirmed by the senate and the house of representatives prior to beginning a term of office.

(B) Except as otherwise provided in this subsection (c), all appointments of the board members by the governor shall be confirmed by joint resolution, adopted first by the senate and then by the house of representatives, prior to the commencement of the term of office to which the member is appointed.

(C) If either house fails to confirm the appointment of a board member by the governor within ninety (90) calendar days after the general assembly next convenes in regular session following such appointment, the appointment terminates on the day following the ninetieth calendar day.

(2) If the general assembly is not in session when initial gubernatorial appointments are made, all such initial appointees shall serve the terms prescribed pursuant to § 49-9-203, unless the appointments are not confirmed during the next regular session of the general assembly following the appointments in accordance with subdivision (c)(1).

(3) If the general assembly is not in session at the time a member is appointed by the governor to fill a vacancy resulting from the expiration of a term, the member whose term has expired serves until a new appointee is confirmed in accordance with subdivision (c)(1).

(4) If the general assembly is not in session at the time a member is appointed by the governor to fill a vacancy not resulting from the expiration of a term, the new appointee serves for the term appointed unless the appointment is

not confirmed during the next regular session of the general assembly following the appointment in accordance with subdivision (c)(1).

(5) All gubernatorial appointed members shall be subject to removal from the board of trustees by a two-thirds (2/3) majority vote of each house of the general assembly for misconduct, incapacity, or neglect of duty. Such removal shall be by passage of a joint resolution adopted first by the senate and then by the house of representatives.

(d) Members of the board of trustees shall be reimbursed for travel expenses in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(e) The reconstituted board of trustees shall assume responsibility beginning July 1, 2018. The reconstitution of the board of trustees has no effect on any action taken by the board of trustees prior to July 1, 2018, unless inconsistent with this act.

(f) The governor is authorized to call the initial meeting of the reconstituted board of trustees to occur on or after July 1, 2018.

SECTION 4. Tennessee Code Annotated, Section 49-9-203, is amended by deleting the section in its entirety and substituting the following:

(a) The initial terms of the members of the board of trustees of the University of Tennessee appointed by the governor pursuant to § 49-9-202(a) shall be two (2), four (4), and six (6) years. Three (3) members shall serve a two-year term; four (4) members shall serve a four-year term; and three (3) members shall serve a six-year term. For all subsequent appointments, members of the board of trustees appointed pursuant to § 49-9-202(a) shall be appointed to serve terms of six (6) years beginning July 1 of the year of appointment and ending on June 30.

(b) Members appointed by the governor pursuant to § 49-9-202(a) are eligible to succeed themselves; provided, that no person may serve more than two (2) consecutive

terms, whether appointed as an initial member, as a successor member, or to fill a vacancy. A member who serves two (2) consecutive terms may be reappointed after four (4) years have elapsed since the individual's last date of service on the board of trustees.

SECTION 5. Tennessee Code Annotated, Section 49-9-204, is amended by deleting the section in its entirety and substituting the following:

(a) If a vacancy on the board of trustees of the University of Tennessee occurs by death or resignation, the governor shall appoint a successor for the remainder of the term, subject to § 49-9-202(c). If a vacancy occurs by reason of expiration of a term, the member whose term has expired shall serve until a successor is appointed and confirmed.

(b) The cessation of any member's legal domicile in the grand division that the member represents pursuant to § 49-9-202(a)(2)(A), or the cessation of any member's legal domicile in the state that results in a failure to satisfy § 49-9-202(a)(2)(C), vacates the member's position. The governor shall appoint a person satisfying the requirement as a successor for the remainder of the term, subject to § 49-9-202(c).

(c) The failure of a member to attend more than fifty percent (50%) of the regular meetings in a calendar year shall be cause for the member's removal and shall authorize the board to call on the governor to appoint a successor; provided, that this requirement does not apply to any ex officio member.

SECTION 6. Tennessee Code Annotated, Section 49-9-205(b), is amended by deleting the subsection in its entirety and substituting the following:

(b) Six (6) members shall constitute a quorum, and they are empowered to transact any business.

SECTION 7. Tennessee Code Annotated, Section 49-9-206, is amended by deleting the section in its entirety and substituting the following:

49-9-206. Committees.

(a)

(1) The board of trustees of the University of Tennessee shall appoint an executive committee of five (5) of its members as a standing committee of the board.

(2) In appointing members to the executive committee, the board of trustees shall strive to appoint at least one (1) person from each University of Tennessee institution.

(3) The executive committee:

(A) May meet as often as necessary to conduct its business;

(B) Must have a majority of voting members present at meetings to constitute a quorum for the transaction of committee business;

(C) Has the authority to:

(i) Oversee and monitor the work of other standing committees, the university's planning process, the president's performance and welfare, and the university's commitment to and compliance with the state's plans and objectives for higher education;

(ii) Recommend to the board of trustees the initial and subsequent compensation of the president and the initial compensation of the chancellors and other university officers defined in the bylaws approved by the board;

(iii) Act for the board of trustees on any matter when necessary between meetings of the board; and

(iv) Perform other responsibilities as the board of trustees deems necessary or advisable, subject to the approval of the board; and

(D) Has only the specific authority granted pursuant to subdivision (a)(3)(C) and shall not operate or conduct any business outside the scope of such authority.

(b)

(1) The board of trustees shall appoint the following standing committees, with at least three (3) of its members serving on each committee:

(A) An audit committee in compliance with the State of Tennessee Audit Committee Act of 2005, compiled in title 4, chapter 35;

(B) A finance and administration committee with responsibility for oversight of finance and administration related matters; and

(C) An academic affairs and student success committee with responsibility for oversight of matters related to academic affairs and student success.

(2) The standing committees created under subdivisions (b)(1) must have a majority of voting members present at meetings to constitute a quorum for the transaction of committee business.

(c)

(1) The board of trustees may establish:

(A) Other standing committees as it deems necessary or advisable from time to time; and

(B) Its own subcommittees and ad hoc committees as it deems necessary or advisable from time to time.

(2)

(A) Any standing committee established under subdivision

(c)(1)(A):

(i) Must be comprised of at least three (3) members of the board of trustees;

(ii) May meet as often as necessary to conduct their business;

(iii) Must have a majority of voting members present at meetings to constitute a quorum for the transaction of committee or subcommittee business; and

(iv) Has only the specific authority granted to it by the board of trustees and shall not operate or conduct any business outside the scope of such authority.

(3) In appointing members to a standing committee created under subdivision (c)(1)(A), the board of trustees shall strive to appoint at least one (1) person from each University of Tennessee institution.

(4) Any standing committee of the board of trustees established under subdivision (c)(1)(A) may establish and appoint the members and chairs of any subcommittee or ad hoc committee it deems necessary or advisable from time to time.

(d) Nothing in this part authorizes the restructure or reorganization of the University of Tennessee system, unless such restructure or reorganization is authorized specifically by statute.

SECTION 8. Tennessee Code Annotated, Section 49-9-209, is amended by deleting subdivision (b)(2) and substituting instead the following:

None of the real property belonging to the university shall be sold or otherwise disposed of except at a meeting of the board of trustees.

SECTION 9. Tennessee Code Annotated, Section 49-9-209(d)(1), is amended by deleting subdivisions (E) and (F) in their entirety and substituting the following:

(E) Have the power to remove the president at any time;

(F) Have full authority and control over all university funds, whether appropriated from state revenues or institutional revenues, except authority to reallocate funds appropriated for a specific purpose or funds appropriated pursuant to the outcomes-based funding formula, and shall annually adopt an operating budget, set tuition and fees, and take all actions necessary and appropriate to ensure the financial stability and solvency of the University of Tennessee system;

SECTION 10. Tennessee Code Annotated, Section 49-9-209(d)(1), is amended by adding the following as new subdivisions (I)-(O) and redesignating the existing subdivisions accordingly:

(I) Approve policies governing student conduct;

(J) Oversee and monitor the operation of the intercollegiate athletics programs of the university, including proposed actions reasonably anticipated to have a long-term impact on the operations, reputation, and standing of the intercollegiate athletics programs or the university;

(K) Evaluate student financial aid in relation to the cost of attendance and approve any necessary policies to improve the availability of financial aid that are in the best interest of students, the university, and the state;

(L) Monitor the university's nonacademic programs, other than athletics, including programs related to diversity and monitor compliance of nonacademic programs with federal and state laws, rules, and regulations;

(M) Evaluate administrative operations and academic programs periodically to identify efficiencies to be achieved through streamlining, consolidation, reallocation, or other measures;

(N) Establish a process through which each advisory board created pursuant to § 49-9-501 must provide a recommendation to the president on the proposed operating budget, including tuition and fees, as it relates to the respective institution prior to the adoption of the annual operating budget by the board of trustees, beginning with any operating budget adopted after January 1, 2019;

(O) Establish a process through which each advisory board created pursuant to § 49-9-501 must provide a recommendation to the president on the proposed strategic plan for the respective institution prior to the approval of the strategic plan by the board of trustees, beginning with any strategic plan approved or adopted after January 1, 2019;

SECTION 11. Tennessee Code Annotated, Section 49-9-209, is amended by deleting subsections (e) and (f) in their entireties and substituting the following:

(e)

(1) The board of trustees shall also have full power and authority to make bylaws, rules, and regulations for the governance of the university and the promotion of education in the university that in the board's opinion may be expedient or necessary.

(2) The bylaws, rules, and regulations shall not be inconsistent with the constitution and laws of the United States or of this state.

(f) The president and chancellors of the university, with the advice and consent of a majority of the board, are authorized to confer any bachelor's, master's, or doctoral degree approved by the board of trustees upon certification by the appropriate university offices that a student has satisfied all degree requirements and all obligations to the university.

SECTION 12. Tennessee Code Annotated, Title 49, Chapter 9, is amended by adding the following as a new, appropriately designated part:

49-9-501. Advisory boards for University of Tennessee institutions.

(a)

(1) On July 1, 2018, there are established advisory boards for the University of Tennessee, Knoxville; University of Tennessee at Martin; University of Tennessee at Chattanooga; and University of Tennessee Health Science Center.

(2) Each advisory board shall consist of five (5) members appointed by the president of the University of Tennessee system, one (1) faculty member selected in accordance with subsection (c), and one (1) student member selected in accordance with subsection (d).

(b)

(1) Of the five (5) members appointed by the president:

(A) At least three (3) members of each advisory board must be alumni of the respective University of Tennessee institution. For purposes of this subdivision (b)(1), "alumni" means a person who earned a degree at the respective institution;

(B) At least one (1) member of each advisory board must be a resident of the county in which the respective University of Tennessee institution is located. For purposes of this subdivision (b)(1)(B), "resident" means a person whose legal domicile is in the county in which the respective institution is located; and

(C) At least three (3) members of each advisory board must be residents of this state. For purposes of this subdivision (b)(1)(C), "resident" means a person whose legal domicile is the state of Tennessee.

(2) In making appointments, the president shall strive to ensure that the advisory boards are composed of members who are diverse in sex, race, perspective, and experience.

(c) One (1) member must be a full-time faculty member of the respective University of Tennessee institution selected and appointed in a manner determined by the faculty senate or equivalent body of that respective institution as soon as practicable for the initial appointment and, for all other subsequent appointments, no later than April 15 of the year of appointment.

(d) One (1) member must be a student at the respective University of Tennessee institution selected and appointed in a manner determined by the respective advisory board as soon as practicable for the initial appointment and, for all subsequent appointments, no later than April 15 of each year. Each student member must be enrolled full-time at the respective University of Tennessee institution throughout the term of appointment; provided, that this requirement does not require enrollment during any summer semester.

(e) The following individuals are prohibited from serving as a member of an advisory board for so long as they hold the office or position:

(1) Employees of any public institution of higher education; except those faculty or student members appointed to each advisory board;

(2) Elected officials;

(3) State employees; and

(4) Members of a governing body for any public institution of higher education.

(f)

(1) The initial terms of the members appointed by the president of the University of Tennessee system shall be two (2), three (3), and four (4) years.

One (1) member shall serve a two-year term, two (2) members shall serve a three-year term, and two (2) members shall serve a four-year term. For all subsequent appointments, such members of the advisory boards shall be appointed to serve terms of four (4) years beginning July 1 of the year of appointment and ending on June 30.

(2) Each faculty member selected in accordance with subsection (c) shall serve a term of two (2) years, beginning July 1 and ending June 30.

(3) Each student member selected in accordance with subsection (d) shall serve a term of one (1) year, beginning July 1 and ending the following June 30.

(g) Members are eligible to succeed themselves; provided, that no person may serve more than two (2) consecutive terms, whether appointed as an initial member, as a successor member, or to fill a vacancy. A member who serves two (2) consecutive terms may be reappointed after four (4) years have elapsed since the individual's last date of service on that advisory board.

(h) If a vacancy occurs by death or resignation, the president of the University of Tennessee system shall appoint a successor for the remainder of the term. If a vacancy occurs by reason of expiration of a term, the board member whose term has expired serves until a successor is appointed.

(i) The cessation of a member's legal domicile in the applicable county that results in a failure to satisfy subdivision (b)(1)(B), or the cessation of any member's legal domicile in the state that results in a failure to satisfy subdivision (b)(1)(C), vacates the member's position. The president of the University of Tennessee system shall appoint a person satisfying the requirement as a successor for the remainder of the term.

(j) The cessation of a faculty member's employment with the university or full-time faculty status that results in a failure to satisfy subsection (c), or the cessation of a

student member's full-time enrollment status that results in a failure to satisfy subsection (d), vacates the member's position. The president of the University of Tennessee system shall appoint a faculty member or student satisfying the requirement as a successor for the remainder of the term.

49-9-502. Advisory board meetings.

(a) Each advisory board of the University of Tennessee established pursuant to § 49-9-501 shall hold at least three (3) meetings annually on a day or days determined by the board from year to year.

(b) Four (4) members shall constitute a quorum, and they are empowered to transact any business.

(c) Each advisory board shall adopt bylaws to govern its meetings, subject to approval by the board of trustees.

(d) The president of the University of Tennessee system shall call the initial meeting of each advisory board to occur on or after July 1, 2018.

(e) The failure of a member to attend more than fifty percent (50%) of the regular meetings in a calendar year is cause for the member's removal and authorizes the board to call on the president of the University of Tennessee system to appoint a successor.

(f) Advisory board members shall be reimbursed for travel expenses in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

49-9-503. Advisory board role and responsibilities.

(a) Each advisory board of the University of Tennessee established pursuant to § 49-9-501 shall:

(1) Submit a recommendation, in accordance with the process established pursuant to § 49-9-209(d)(1)(N), regarding the proposed operating budget, including tuition and fees, as it relates to the respective institution;

(2) Submit a recommendation, in accordance with the process established pursuant to § 49-9-209(d)(1)(O), regarding the strategic plan for the respective institution;

(3) Advise the chancellor of the respective University of Tennessee institution regarding university operations and budget, campus master plan, campus life, academic programs, policies, and other matters related to the institution and as may be requested by the chancellor from time to time;

(4) Under the leadership of the chancellor of the respective institution, seek to promote the overall advancement of the institution and the University of Tennessee system;

(5) Advise the board of trustees or president of the University of Tennessee system on matters related to the institution and the University of Tennessee system as may be requested by the president or board of trustees from time to time; and

(6) Be subject to the open meetings laws, compiled in title 8, chapter 44.

(b) The responsibilities of, and any actions taken by, an advisory board shall not conflict with or inhibit the authority of the board of trustees.

SECTION 13. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 14. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 15. This act shall take effect upon becoming a law, the public welfare requiring it.